

Article 4: City Employees' Retirement System

Division 5: Disability Retirements

*("Benefits" incorp. 1-22-1952 by O-5046 N.S.,
contained in O-10792 O.S., adopted 11-29-1926;
repealed 10-25-1962 by O-8744 N.S.)
("Disability Retirement for Members and
Safety Members" added 10-25-1962 by O-8744 N.S.)
(Retitled to "Disability Retirements"
on 2-8-1993 by O-17891 N.S.)*

§24.0501 Industrial Disability—Safety and General Members

- (a) Any member of the Retirement System enrolled before September 3, 1982, permanently incapacitated from the performance of duty as the result of injury or disease arising out of or in the course of his or her employment, shall be retired for disability with retirement allowance, regardless of age or amount of service.
- (b) Any member of the Retirement System enrolled on or after September 3, 1982, permanently incapacitated from the performance of duty as the result of injury or disease arising out of or in the course of his or her employment; and
 - (1) not arising from a preexisting medical condition, or
 - (2) not arising from a nervous or mental disorder, irrespective of claimed causative factors, shall be retired for disability with retirement allowance, regardless of age or amount of service. For purposes of this section, a preexisting medical condition is defined as any condition which occurred or existed prior to membership in the Retirement System. Any medical condition occurring during any mandatory waiting periods prior to eligibility for membership in the Retirement System shall not be considered a preexisting condition.
- (c) Notwithstanding the provisions of subsection (b) of this Section 24.0501, for a period of two years commencing July 1, 2000 and terminating on June 30, 2002, a Member of the Retirement System who is employed by the City as of July 1, 2000, may be retired for disability under this section if all of the following conditions are met:

- (1) on or after July 1, 2000, the Member is a victim of a violent attack, involving the use of deadly force and occurring while the Member was engaged in performance of his or her duties as an employee of the City, which caused great bodily harm to the Member,
- (2) the attack resulted in a nervous or mental disorder, and
- (3) it has been medically determined that the Member has become psychologically or mentally incapable of performing his or her normal and customary duties, as a result of the violent attack.

The benefit provisions of this Section 24.0501(c) shall sunset on June 30, 2002, and no Member who has not already been determined to be eligible to receive this benefit shall be entitled to apply for any such benefit after June 30, 2002.

- (d) Irrespective of the enrollment date into the Retirement System, any member permanently incapacitated from any other cause shall be retired regardless of age but with a retirement allowance only after ten years of creditable service.
- (e) The Board of Administration shall prescribe rules and regulations setting forth the procedure for the retirement of a member or safety members for disability. Applicants for any disability retirement shall be governed by the limitations set forth in California Code of Civil Procedure Section 1094.6.

(Amended 9-12-2000 by O-18840 N.S.)

§24.0502 Industrial or Non-Industrial—Service Retirement if Greater

Upon retirement for industrial or non-industrial disability, a member, including a safety member, who has attained the minimum age at which he may retire for service, shall receive his service retirement allowance, if greater.

(“Industrial or Non-Industrial—Service Retirement if Greater” added 12-8-1976 by O-11964 N.S.)

§24.0503 Industrial Disability—Safety Member—Computation of Benefits

Upon retirement of a Safety Member for industrial disability: (a) that Member shall receive in equal monthly installments a disability retirement allowance of 50% of Final Compensation plus an Annuity purchased with Accumulated Additional Contributions, if any; or, (b) if qualified for service retirement, that Member shall receive the service retirement allowance if such allowance, after deducting such additional Annuity is greater than the amount specified in Section 24.0503(a). The

disability retirement allowance for a Safety Member retired because of industrial disability shall be derived from an Annuity based on that Member's Accumulated Normal Contributions and a disability retirement pension derived from contributions of the City.

(Amended 2-25-1997 by O-18383 N.S.)

§24.0504 Non-Industrial Disability—Safety Member—Computation of Benefits

Upon retirement of a safety member for non-industrial disability, he shall receive a non-industrial disability retirement allowance which shall consist of:

- (a) An annuity which is the actuarial equivalent of his accumulated normal contributions at the time of retirement.
- (b) If in the opinion of the Board his non-industrial disability is not due to intemperance, willful misconduct, or violation of law on his part, a disability retirement pension derived from the contributions of the City. The disability retirement pension shall be such an amount as, with that portion of his annuity provided by his accumulated normal contributions, will make his disability retirement allowance equal to 90% of one 1/50th of his final compensation multiplied by the number of years of service credited to him or 1/3 of his final compensation, whichever is greater.

(“Non-Industrial Disability—Safety Member—Computation of Benefit renumbered from Sec. 24.0503.1 on 2-25-1997 by O-18383 N.S.)

§24.0505 Industrial Disability—General Member—Computation of Benefits

Upon retirement of a General Member for industrial disability:

- (a) that Member shall receive in equal monthly installments a disability retirement allowance of 50% of Final Compensation plus an Annuity purchased with Accumulated Additional Contributions, if any; or,
- (b) if qualified for service retirement, that Member shall receive the service retirement allowance if such allowance, after deducting such additional Annuity is greater than the amount specified in Section 24.0505(a). The disability retirement allowance for a General Member retired because of industrial disability shall be derived from an Annuity based on that Member Accumulated Normal Contributions and a disability retirement pension derived from contributions of the City.

(“Industrial Disability—General Member—Computation of Benefits,” renumbered from Sec. 24.0504.1 and amended 2-25-1997 by O-18383 N.S.)

§24.0506 Non-Industrial Disability—General Member—Computation of Benefits

Upon retirement of a general member for non-industrial disability, he shall receive a non-industrial disability retirement allowance which shall consist of:

- (a) An annuity which is the actuarial equivalent of his accumulated normal contributions at the time of retirement.
- (b) If in the opinion of the Board his non-industrial disability is not due to intemperance, willful misconduct, or violation of law on his part, a disability retirement pension derived from the contributions of the City. The disability retirement pension shall be such an amount as, with that portion of his annuity provided by his accumulated normal contributions, will make his disability retirement allowance equal to 90% of 1/ 60th of his final compensation multiplied by the number of years of service credited to him, or 1/3 of his final compensation, whichever is greater.

*(“Non-Industrial Disability—General Member—Computation of Benefits”
renumbered from Sec. 24.0505.1 on 2-25-1997 by O-18383 N.S.)*

§24.0508 Minimum Benefit Due to Intemperance, Willful Misconduct or Violation of the Law

If in the opinion of the Board the disability is due to intemperance, willful misconduct or violation of law on the part of the member, including a safety member, and his annuity is less than \$240.00 per year, the Board may pay the member his accumulated contributions in one lump sum in lieu of his annuity.

(“Minimum Benefit Due to Intemperance, Willful Misconduct or Violation of the Law” added 12-8-1976 by O-11964 N.S.)

§24.0509 Annual Filing of Disability Affidavit

The Board of Administration shall prescribe rules and regulations for an annual filing of an affidavit of condition of disability from any member, including a safety member, who has been retired for disability, industrial or non-industrial. The Board may at any time prior to the time such member reaches the minimum age for voluntary retirement order suspension of benefits for failure to timely submit such affidavits or for failure to comply with any lawful order of the Board.

(“Annual Filing of Disability Affidavit” added 12-8-1976 by O-11964 N.S.)

§24.0510 Periodic Physical Exams of Disability Retirees

The Board of Administration shall prescribe rules and regulations providing for periodical physical examination of any member, including a safety member, who has been retired for disability, industrial or non-industrial, and may at any time prior to the time or before such member reaches the minimum age of voluntary retirement order such employee to active duty, in which case said disability retirement allowance shall cease.

(“Periodic Physical Exams of Disability Retirees” added 12-8-1976 by O-11964 N.S.)

§24.0515 Industrial Disability—Workers Compensation

- (a) If, pursuant to general law, an award of compensation shall be made or compensation shall be paid on account of injury or sickness caused by or arising out of employment as an employee of The City of San Diego, that compensation shall not be cumulative with any industrial disability retirement allowance provided for in this article. Such compensation, as may be awarded, shall be set off against any disability retirement pension payments which is the obligation of the City. If the amount of compensation as may be awarded is paid in one sum or in installments equal to or greater than the monthly disability retirement pension payment, no disability retirement pension payments shall be paid until the disability retirement pension payments equal the amount of compensation awarded and paid. No deductions shall be made from the annuity portion of any disability retirement allowance awarded to a member. This provision shall apply only to those persons hired by The City of San Diego on or after October 1, 1978.
- (b) Notwithstanding the provision of subsection (a) above, the requirement to set off any compensation received in the nature of workers compensation shall not be applicable to safety members from and after January 1, 1988. All set-off requirements and actions previously imposed upon safety members pursuant to this section shall, as of January 1, 1988 be discontinued such action to be prospective only. No right of claim to prior valid offsets (prior to January 1, 1988) shall exist. Such discontinuance shall apply to all existing and future industrially retired safety members.
- (c) Notwithstanding the provision of subsection (a) above, the requirement to set off any compensation received in the nature of workers compensation shall not be applicable to general members from and after July 1 1989. All set-off requirements and actions previously imposed upon general members pursuant to this section shall, as of July 1, 1989 be discontinued, such action to be

prospective only. No right of claim to prior valid offsets (prior to July 1, 1989) shall exist. Such discontinuance shall apply to all existing and future industrially retired general members.

(Amended 5-15-1989 by O-17295 N.S.)